THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.1956 of 2006

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Dated:02.02.2006

Between:

Smt.A.Sailaja and others.

..... PETITIONERS

AND

The Executive Officer, Sri Venugopala Swami Devasthanam, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.1956 of 2006

ORDER:

The petitioners are residents of residential houses in Laxmi Nagar of Balaji Nagar, Nellore. The land where the petitioners are staying is situated adjacent to the lands

in Survey Nos.832 (Acs.4.90 cents), 833 (Acs.4.30 cents) and 834 (Acs.4.32 cents) belonging to the second respondent-temple. The Managing Trustee of the second respondent-temple issued tender-cum-auction notice inviting participation/bids from public for sale of the temple lands referred to hereinabove. Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioners that for more than twenty-five years the residents of Laxmi Nagar are using the pathway situated in the temple lands and if the lands are now auctioned and sold, the petitioners would be deprived of the right of passage and ingress and egress. Therefore, they challenge the auction notice issued by the second respondent.

Learned Counsel for the petitioner relies on Condition No.13 of the tender conditions, which is to the effect that the successful tenderer/bidder is not entitled to disturb the existing pathways, drainage and irrigation canals. He further submits that from times immemorial there has been a pathway in the temple lands and if the land is sold, the petitioners would be deprived of the right of easement. The question whether the petitioners have been continuously using a portion of the temple lands as pathway for more than twenty years is a question of fact which cannot be gone into in this writ petition, nor it is presumable for this Court to declare the easement right of the petitioners. Presumably, for this reason, the auction notice takes care of the right of those persons who were using any pathways in the lands, and for that reason Condition No.13 was incorporated. If there is any pathway as alleged by the petitioners, Condition No.13 would certainly come to the rescue of the petitioners. In this writ petition, no relief can be granted.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

02.02.2006

Note: Issue C.C by 06.02.2006.

B/o.

vs